REMARKS/ARGUMENTS

Applicants have received the Office Action dated July 21, 2005, which: 1) alleges that the pending claims are not entitled to priority of copending Application No. 09/675,281 (hereinafter, the "*Parent Application*"); 2) objects to the Specification; 3) rejects claims 1-22 under the judicially created doctrine of obviousness-type double patenting over claims 1-28 of the *Parent Application*; 4) rejects claims 1, 7, 16-18, 21, and 22 under 35 U.S.C. § 102(e) as allegedly anticipated by *Gupta* (U.S. Pat. No. 5,887,164); 5) rejects claims 2-6 under 35 U.S.C. § 103(a) as allegedly anticipated by *Gupta* in view of *Davis* (U.S. Pat. No. 6,205,547); and 6) rejects claims 8-10, 12-15, and 19-20 under 35 U.S.C. § 103(a) as allegedly anticipated by *Gupta* in view of *Klimenko* (U.S. Pat. No. 5,974,547).

With this Response, Applicants have amended claims 1, 11, 16, and 17, and canceled claim 6. Therefore, claims 1-5 and 7-22 remain pending.

I. PRIORITY OF THE CLAIMS

The Office Action alleges that the pending claims of the instant application are not entitled to the priority of the *Parent Application* (filed September 29, 2000), because the specification of the instant application allegedly includes matter not present in the parent application. Applicants respectfully traverse such an allegation.

Under 35 U.S.C. § 120, a claim in a U.S. application is entitled to the benefit of the filing date of an earlier filed U.S. application (i.e., the claim has priority) if the subject matter of the claim is disclosed, in the earlier filed application, in the manner provided by 35 U.S.C. § 112. *See generally, Transco Prods. Inc. v. Performance Contracting Inc.*, 32 USPQ2d 1077, 1080-82 (Fed. Cir. 1994). Since each of pending claims is supported in a manner that is consistent with § 112 in the *Parent Application*, they are entitled to the priority of the *Parent Application*.

For example, a claim 1 recites (as amended): a processor (supported at least in Figure 1 of the *Parent Application*); a memory coupled to the processor (supported at least in Figure 1 of the *Parent Application*); a bridge device coupling

a system bus to the processor, the system bus configured to couple to an expansion bus of a managed computer system (supported at least in Figure 1 of the *Parent Application*); wherein the memory is configured to hold a bootable image for the managed computer system, and wherein the processor is configured to emulate a disk drive device storing the bootable image, and to boot the managed computer system from the bootable image stored in the memory (supported at least at p. 7, ll. 9-11 and p. 16, ll. 7-11 of the *Parent Application*); wherein the processor is configured to reboot the managed computer system without accessing a host processor of the managed computer system (supported at least at p. 16, ll. 22-23 of the *Parent Application*). Accordingly, Applicants respectfully assert that the pending claims are entitled to priority of the *Parent* Application and reconsideration by the Examiner is requested.

II. SPECIFICATION

The Office Action objects to the Specification because of informalities at ¶ [0009] in referencing previous patent applications that are now issued patents. Applicants have amended the Specification to rectify any such informalities and respectfully submit that no new matter is added by this amendment.

Additionally, Applicants have amended the Title of the instant application , and respectfully submit that no new matter is added by this amendment.

III. DOUBLE PATENTING REJECTIONS

The Office Action rejects the pending claims under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 1-28 of the *Parent Application.* To the extent that the pending claims conflict with the claims in the *Parent Application*, Applicants file concurrently herewith a terminal disclaimer.[1]

[1] Applicants note that the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." *Quad Environmental Technologies Corp. v. Union Sanitary District*, 20 USPQ2d 1392 (Fed. Cir. 1991).

IV. § 102 AND § 103 REJECTIONS

The pending claims stand rejected, under §§ 102 and 103, over *Gupta*. Applicants respectfully traverse these rejections because *Gupta* fails to teach or suggest all of the claim elements.

In order for a reference to anticipate a claim, "[t]he identical invention must be shown [in the anticipatory reference] in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Additionally, the elements of the allegedly anticipatory reference must be arranged as required by the claim. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). Applicants respectfully traverse the §§ 102 and 103 rejections because *Gupta* fails anticipate the pending claims.

For example, amended claim 1 recites (emphasis added): wherein the processor is configured to reboot the managed computer system without accessing a host processor of the managed computer system. The "host processor" of *Gupta* (i.e., target processor 42), however, fails to perform the recited features of claim 1. In fact, "when the target processor 42 receives the reset it executes the power on self test" (*Gupta*, Col. 7, ll. 50-52), and therefore the target processor 42 is instrumental in rebooting the target computer 40 (i.e., the managed computer system). Since such a teaching is directly contradictory to the elements of claim 1, *Gupta* does not anticipate claim 1, and *Gupta* is not properly combinable with any other reference in an obviousness rejection.

Independent claims 11 and 17, as amended, include elements akin to those mentioned above with regard to claim 1, and therefore are allowable over *Gupta* for at least the same reasons as claim 1.

V. CONCLUSION

In the course of the foregoing discussions, Applicants may have at times referred to claim elements in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other elements can be ignored or dismissed. The claims must be viewed as a

whole, and each element of the claims must be considered when determining the patentability of the claims.

Applicants respectfully request reconsideration and that a timely Notice of Allowance be issued in this case. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

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